IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 10763 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. Sadanand S. Pandit for Petitioner.

Mr. R.G. Ketkar for Respondents.

CORAM : F.I. REBELLO,J.
DATED : JANUARY 13, 2005

P.C.

. Rule. Heard forthwith.

. The Petitioner apprehending that he would be dismissed, pursuant to enquiry initiated, filed complaint of unfair labour practice against respondent herein. The Labour Court held that enquiry conducted was fair and proper and the findings are not perverse, by order dated 18.7.2000. Thereafter it appears that application came to be moved on which order was passed in Exh. 33 and 34 directing Corporation to pay subsistence and other allowances in terms of the order dated 4.12.2001. The complaint thereafter came to be disposed of

by judgment dated 31.1.2003. The complaint was allowed. The learned Labour Court held that Respondent have committed unfair labour Practice under Item 1(4) and 1(g) of the Schedule IV of M.R.T.U. & P.U.L.P. Act and directed reinstatement on the original post with continuity of service and outstanding subsistence allowance as per order of court dated 4.12.2001 and backwages after his termination till passing of this order.

. Respondent aggrieved preferred revision Application No. 88 of 2003. By order dated 4.11.2004, revision was allowed and the order of the Labour Court dated 31.1.2003 was set aside and the complaint dismissed.

. It is not necessary to go into the legality of the orders considering what has been pointed out at the bar. The enquiry has since been completed. The Petitioner was given opportunity to show cause along with findings of the enquiry officer. The Petitioner has shown cause. The Respondent corporation has yet to take disciplinary action against the petitioner herein. Considering that impugned order of the Labour Court directing reinstatement and

the order of the Revisional Court setting aside the same order, both are totally without jurisdiction as till date there is no order imposing punishment by way of disciplinary action by respondent on petitioner. The Respondents have already paid subsistence allowance in terms of the standing orders. It is further brought on record that from 1.4.2003 his suspension has been revoked and since then, the petitioner is on duty. Hence, the following order :

. The orders dated 31.1.2003 and 4.11.2004 are set aside. The complaint is dismissed. It will be open to the Respondents to proceed according to Law based on the findings recorded by the Enquiry Officer and reply to the show cause notice filed by the Petitioner herein.

. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)